

EXHIBIT “D”

MAINE DISTRICT COURT, DISTRICT NINE
DIVISION OF NORTHERN CUMBERLAND

FEDERAL NATIONAL :
MORTGAGE ASSOCIATION : DOCKET NO.
Plaintiff : BRI-RE-09-65
:
V. :
:
NICOLE M. BRADBURY :
Defendant:
and :
GMAC MORTGAGE, LLC :
d/b/a DITECH, LLC.COM :
and BANK OF AMERICA, NA:
Parties in Interest:

- - -
June 7, 2010
- - -

Oral deposition of JEFFREY D.
STEPHAN, taken pursuant to notice, was
held at the law offices of LUNDY FLITTER
BELDECOS & BERGER, P.C., 450 N. Narberth
Avenue, Narberth, Pennsylvania 19072,
commencing at 10:10 a.m., on the above
date, before Susan B. Berkowitz, a
Registered Professional Reporter and
Notary Public in the Commonwealth of
Pennsylvania.

APPEARANCES:

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1
2 (Document marked Exhibit-1
3 for identification.)

4 - - -

5 (It is hereby stipulated and
6 agreed by and between counsel that
7 sealing, filing and certification
8 are waived; and that all
9 objections, except as to the form
10 of questions, be reserved until
11 the time of trial.)

12 - - -

13 JEFFREY D. STEPHAN, after
14 having been duly sworn, was
15 examined and testified as follows:

16 - - -

17 MS. PITNEY: I would like to
18 put on the record that we
19 requested a stipulation, and
20 Attorney Cox has denied our
21 request for that stipulation. And
22 that would be a stipulation that
23 this deposition transcript be used
24 for this case, FNMA versus
25 Bradbury, only.

1 STEPHAN

2 MR. COX: Mr. Fleischer, we
3 understand that Julia Pitney
4 represents the plaintiff in this
5 case. Who do you represent today?

6 MR. FLEISCHER: I believe
7 Ms. Pitney both represents Fannie
8 Mae and GMAC, and I am here on
9 GMAC's behalf.

10 MR. COX: GMAC is neither a
11 plaintiff nor defendant in this
12 case, so we may have some issues
13 around that, but we'll cross that
14 bridge when we get to it.

15 - - -

16 EXAMINATION

17 - - -

18 BY MR. COX:

19 Q. Mr. Stephan, for the record,
20 would you state your full name, please?

21 A. Jeffrey Stephan.

22 Q. How old are you?

23 A. I am 41, in June.

24 Q. You live in Sellersville,
25 Pennsylvania?

1 STEPHAN

2 A. That is correct.

3 Q. Have you had your deposition
4 taken previously?

5 A. In other cases, yes.

6 Q. How many other cases?

7 A. This will be my third time.

8 Q. What other cases were you
9 deposed in, to your recollection?

10 A. In what kind of cases?

11 Q. Well, can you remember the
12 names of the cases?

13 A. No, I don't.

14 Q. When is the last time that
15 you've had your deposition taken?

16 A. I would approximate two,
17 three months ago.

18 Q. Was that in Florida?

19 A. No. That was in New Jersey.

20 Q. That would have been in
21 2010?

22 A. Yes.

23 Q. Then you were deposed in
24 Florida in December of 2009?

25 A. That is correct.

1 STEPHAN

2 Q. When was the other
3 deposition, the third deposition?

4 A. This one today is the third.

5 Q. Have you testified in court
6 as a witness before?

7 A. No.

8 Q. Did you review any documents
9 to prepare for this deposition?

10 A. Yes.

11 Q. What documents did you
12 review?

13 A. I looked at the deposition
14 that was sent to me. And I went over the
15 Complaint with Brian.

16 THE WITNESS: When was that,
17 Thursday, Wednesday?

18 MR. FLEISCHER: You're
19 directed not to say anything with
20 regard to what we spoke about,
21 but, yes, you can answer to what
22 you looked at.

23 THE WITNESS: Yes.

24 MS. PITNEY: I'm sorry to
25 interrupt. I'm just having a

STEPHAN

little difficulty hearing you. Is there any way to push the phone a little closer to Mr. Stephan?

MR. FLEISCHER: Okay. And, Julia, let me know during the course if there's still a problem.

MS. PITNEY: You were doing fine, and then it got a little fuzzy.

THE WITNESS: I'll talk louder.

MS. PITNEY: Thank you.

BY MR. COX:

Q. What deposition did you look at?

A. The deposition for this case.

Q. The Deposition Notice?

A. Right, the Deposition Notice.

Q. It was not another deposition transcript --

A. No.

Q. -- that you were referring

1 STEPHAN

2 to?

3 A. No.

4 MR. FLEISCHER: Let him
5 finish the question, and then
6 respond, because it makes it
7 cleaner for the transcript.

8 THE WITNESS: Thank you.

9 BY MR. COX:

10 Q. What is your educational
11 background?

12 A. I have a four-year degree at
13 Penn State University in liberal arts.

14 Q. When did you go to work for
15 GMAC?

16 A. I began work at GMAC
17 September 30th of '04.

18 Q. What was your work history,
19 in a summary form, before you went to
20 work for GMAC?

21 A. I have done collections and
22 mortgage foreclosures for other
23 companies.

24 Q. Who have you done mortgage
25 foreclosure work for?

STEPHAN

A. ContiMortgage, Fairbanks
Capital, GMAC.

Q. The first one, I'm not sure
about. Is that Conti, C-O-N-T-E (sic)?

A. C-O-N-T-I.

Q. What period of time did you
work for ContiMortgage?

A. I began there in '92. I
believe I left there in '98.

Q. What years, approximately,
did you work for Fairbanks Capital?

A. '98 to '04.

Q. You work in the GMAC
Mortgage office in Fort Washington,
Pennsylvania; is that correct?

A. That is correct.

Q. Approximately, how many
people work in that office?

A. I can't estimate the number
of people. I can say my department,
approximately 50 to 60 people.

Q. What's the name of your
department?

A. Foreclosures.

1 STEPHAN

2 Q. When you began working for
3 GMAC Mortgage in 2004, what position did
4 you begin working in?

5 A. I was a foreclosure
6 specialist.

7 Q. What kinds of duties did
8 that involve?

9 A. That involved the day-to-day
10 handling and servicing of a portfolio of
11 loans that fell into a foreclosure
12 category.

13 Q. What kinds of duties did you
14 carry out with respect to those matters?

15 MS. PITNEY: Object to form.

16 MR. COX: You have to
17 answer.

18 MS. PITNEY: You can answer
19 the question.

20 THE WITNESS: The everyday
21 servicing of the file, from
22 contacting the attorney, supplying
23 an attorney who's handling a case
24 within my portfolio with any
25 information they may need, a copy

STEPHAN

of documents that may be needed
through a fax form or e-mail form,
the calculation of figures for
judgments, reporting sale results
at that time, and properly
conveying properties to the proper
departments for post sale action.

BY MR. COX:

Q. How long did you hold the
position of foreclosure specialist?

A. With GMAC, three years.

Q. So you would have assumed a
new position sometime in 2007?

A. Yes.

Q. What position did you assume
in 2007?

A. I became a team lead within
the foreclosure department.

Q. What duties did you assume
as the team lead in the foreclosure
department?

A. At that time, GMAC
segregated our department into teams, and
I was put into place as the supervisor or

STEPHAN

team lead for our bidding team, which
would be a team of individuals who
calculate the bids for sales.

Q. Calculate the bids for sales
of mortgage --

A. Foreclosure sales.

MR. FLEISCHER: Again, let
him finish the question.

BY MR. COX:

Q. Just so I can understand it,
your role in that position was to help
GMAC calculate what it was going to bid
at any given foreclosure sale?

A. That would be correct.

Q. The foreclosure
department -- is that what it's called?

A. Yes.

Q. That has units within it?

A. Yes.

Q. And when you were doing the
bidding work, what unit were you a part
of at that time?

A. The bid team.

Q. How long did you serve on

STEPHAN

the bid team?

A. I'm going to estimate six months to a year, at the most.

Q. Does it sound roughly correct that sometime in 2008, you assumed a new position?

A. Yes.

Q. What was the next position that you held after working on the bid team?

A. My present position, which is the team lead of the document execution team.

Q. Is there also a service transfer unit?

A. Yes, there is.

Q. Are you the team lead of that as well?

A. Yes, I am. That falls into the document execution team.

Q. So I talk your language, there's a foreclosure department?

A. Yes.

Q. And the subdivisions within

STEPHAN

that, do you call them teams or units?

A. Teams.

Q. So there's a foreclosure department, and then within it are a group of teams that do different functions; is that correct?

A. That is correct.

Q. What does the document execution team do?

MR. FLEISCHER: Objection as to form.

THE WITNESS: Can you rephrase that?

BY MR. COX:

Q. What are the functions of the document execution team?

A. The functions of my document execution team is, I have staff that prints documents, from our computer system, that are submitted from our attorney network. I have staff, also, on that team who prepares the documents which have already received figures from our attorneys. So there are completed

STEPHAN

documents. They fill in the blanks, they stamp names. They ensure that all of the notary lines are completed properly once it's returned from the notary. And that staff also is in charge of making sure they Federal Express the document back to the designated attorney within our network.

Q. What does the service transfer team do?

A. The service transfer team receives a list of loans from our transfer management team, which is located in Iowa. The service transfer team within foreclosure only handles loans that fall into a bankruptcy or foreclosure category. They prepare files or CDs, and transfer them to the new servicer. So they're loans that are either acquired, or they're loans that are being transferred to a new servicer for service.

Q. How many employees are on the document execution team?

STEPHAN

A. 14.

Q. Including yourself?

A. No; including me, 15.

Q. What training have you received from GMAC to function in your capacity as the team lead for the document execution team?

MS. PITNEY: Object to form.

BY MR. COX:

Q. Let me restate the question. Have you received any training from GMAC to use in conjunction with your performance as the team lead for the document execution team?

A. Yes.

Q. What training have you received?

A. I received side-by-side training from another team lead to instruct me on how to review the documents when they are received from my staff.

Q. Who was that person?

A. That person, at the time, I

STEPHAN

believe was a gentleman by the name of
Kenneth Ugwuadu, U-G-W-U-A-D-U. He is no
longer with GMAC.

Q. How long did that training
last?

A. Three days.

Q. Were there any written or
printed training materials or manuals
used as a part of that training?

A. No.

Q. Again, just so I understand
what your testimony was, that training
involved your learning how to review the
documents that were being processed
through your hands; is that correct?

A. That's correct.

Q. What were you trained to do
with respect to those documents by that
gentleman?

A. Basically, how to review the
system, which I already basically knew
from preparing documents in my prior
position before becoming a team lead. So
it was more or less a rehash, let's say,

1 STEPHAN

2 or retraining, to confirm that I was
3 looking at things correctly in the
4 system.

5 Q. When you refer to a system,
6 you're referring to a computer system?

7 A. Yes.

8 Q. Other than what you might
9 call it when you're not happy, does that
10 system have a name?

11 A. Yes. That system is called
12 Fiserv, F-I-S-E-R-V.

13 Q. Have you received any
14 training on how to use that system?

15 A. Yes, when I was hired.

16 Q. Are there any manuals or
17 training materials associated with your
18 training on that system?

19 A. Yes, there is.

20 Q. Do you have those manuals in
21 your possession?

22 A. Presently, no.

23 Q. Do they exist in your office
24 at GMAC?

25 A. I honestly don't know.

STEPHAN

Q. In your role as team lead for the document execution team, do you have any duties with respect to the receipt, application, or counting for loan payments?

A. No.

MS. PITNEY: Object to the form of the question.

BY MR. COX:

Q. What department has that responsibility?

A. To my understanding, that would be customer service. And within customer service, I believe there is a cash unit.

Q. Have you ever worked in that cash unit?

A. No.

Q. Have you ever worked in that customer service department?

A. No.

Q. Have you ever had any training in how that department and unit work?

1 STEPHAN

2 A. No.

3 Q. In your capacity as team
4 lead for the document execution team, do
5 you have any responsibility for data
6 entry into the computer system regarding
7 payments received by GMAC?

8 A. No.

9 Q. In your capacity as the team
10 lead for the document execution team, do
11 you have any role in the foreclosure
12 process at GMAC, other than the signing
13 of documents?

14 MR. FLEISCHER: Objection as
15 to the form of the question.

16 THE WITNESS: Can you
17 rephrase?

18 BY MR. COX:

19 Q. In your capacity as the team
20 lead for the document execution team, do
21 you have any role in the foreclosure
22 process, other than the signing of
23 documents?

24 A. No.

25 Q. I'm going to hand you what

1 STEPHAN
2 we have marked as Deposition Exhibit
3 Number 1, which is your affidavit in this
4 case, dated August 5, 2009.

5 MS. PITNEY: Excuse me, Tom.
6 This is Julia. Am I to presume
7 that this is the only exhibit
8 you're going to be introducing?
9 Because I haven't received any
10 exhibits that you plan to produce
11 at this deposition today.

12 MR. COX: I had no idea you
13 were going to be participating
14 today, Julia.

15 MS. PITNEY: Well, I
16 represent the plaintiff. It
17 shouldn't come as any surprise.

18 MR. COX: We're not going to
19 have a debate on the record. The
20 exhibits are here. You're welcome
21 to come see them. I had no idea
22 that you were going to participate
23 in this fashion.

24 MS. PITNEY: You had no
25 idea?

1 STEPHAN

2 MR. COX: I'm not going to
3 have this exchange on the record
4 with you. If you want to go off
5 the record for a minute, I'll be
6 happy to do it.

7 MS. PITNEY: No, we're going
8 to stay right on the record, Tom.

9 MR. COX: That's fine.

10 MS. PITNEY: Is it your
11 intent to introduce these exhibits
12 that have not been produced to the
13 opposing party?

14 MR. COX: I'm not going to
15 respond to that. I will entertain
16 objections that you are going to
17 make. But I'm not going to
18 respond to your questions on the
19 record.

20 MS. PITNEY: I'm going to
21 object to each and every exhibit.

22 MR. COX: That's your right
23 to do that.

24 BY MR. COX:

25 Q. I've handed you Deposition

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Exhibit Number 1, Mr. Stephan. Is that a document signed by you?

A. Yes, that is my signature.

Q. And that's dated August 5, 2009?

A. That is correct.

Q. Do you have any memory of signing that document?

A. No, I do not.

MS. PITNEY: I'd like to take a brief break and speak with Attorney Fleischer separately. There's no question pending.

(Whereupon, a short recess was taken.)

MR. COX: I gather you have something you want to say on the record, Julia?

MS. PITNEY: Yes. I object to not being provided copies of the documents that you intend to introduce in this deposition. And in an effort to make things more efficient, my proposal is that --

1 STEPHAN

2 I understand there's not a large
3 number of documents. I propose
4 that we have Attorney Fleischer
5 fax them to me, or e-mail, in
6 bulk, or we're going to have to
7 stop. I would object. And each
8 time I'm going to stop and have
9 each document sent to me.

10 MR. COX: Your objection is
11 noted.

12 MR. FLEISCHER: Why don't we
13 at least just deal with the one
14 document that's in front of us at
15 this point, which is the
16 affidavit, and then we'll address
17 each one as they come up.

18 MS. PITNEY: Fair enough.

19 BY MR. COX:

20 Q. Mr. Stephan, you've
21 testified that in addition to yourself,
22 there are 14 other employees in your
23 document execution team.

24 A. That is correct.

25 Q. You have a title of limited

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signing officer; is that correct?

A. That is correct.

Q. How long have you been a
limited signing officer for GMAC
Mortgage?

A. I'm going to estimate, two
years.

Q. Are there any other limited
signing officers among the 14 people on
your team?

A. No, not amongst my 14
people.

Q. Exhibit-1, on the bottom of
the first page, says: I have under my
custody and control the records relating
to the mortgage transaction referenced
below.

What records does GMAC
maintain with respect to mortgage
transactions?

MS. PITNEY: Object to the
form.

THE WITNESS: Please
rephrase.

1 STEPHAN

2 BY MR. COX:

3 Q. What records does GMAC
4 maintain with respect to mortgage loans?

5 A. We keep our records for the
6 foreclosure department and the rest of
7 the company on our Fiserv system for
8 availability throughout our company.

9 Q. Do paper records exist
10 anywhere within GMAC Mortgage?

11 A. Yes, they do.

12 Q. Where do they exist?

13 A. I believe they are housed
14 either in our Iowa office or in
15 Minnesota, or with any of our custodians
16 involved within the company.

17 Q. Do you have any
18 responsibilities for making entries in
19 the Fiserv system?

20 A. Other than just usual notes,
21 no.

22 Q. What kind of usual notes do
23 you enter?

24 MS. PITNEY: Object. I'm
25 objecting to the form of the

STEPHAN

question. And, furthermore, I'm
objecting to the extent that
you're basically asking him an
incredibly broad-based question
here, Tom. If you want to ask him
about this case and any entries he
made with respect to this case,
then that's fine. But your
question is pretty sweeping there.

BY MR. COX:

Q. What is your usual business
practice and routine with respect to
making usual notes in the Fiserv system?

A. If a customer were to call
in, I would make a note in our computer
system.

Q. Do customers call you in
your capacity as team lead for the
document execution team?

A. No, they do not.

Q. So if that's the only kind
of notes that you would make in the
system, is it fair to say that you don't
make notes in that system?

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A. That would be correct.

Q. And you have no role in the entry of any other data into that system; isn't that correct?

A. That is correct.

Q. What department maintains that system?

MR. FLEISCHER: Objection as

to form.

BY MR. COX:

Q. Do you know what department maintains that system?

A. The system is used by the entire company.

Q. Do you know what department maintains the security for that system?

A. The IT department.

Q. Where is that located?

A. Throughout the entire country.

Q. Do you know what department makes entries into that system?

A. Numerous departments.

Q. Do you know what departments

1 STEPHAN

2 have the ability to change entries in
3 that system?

4 A. Nobody has the ability to
5 change an entry in the system, as far as
6 a note would go.

7 Q. What do you mean by that?

8 A. Such as if a customer calls
9 in, you type in the system. Once you
10 type it, it's entered.

11 Q. Does GMAC keep a paper
12 record of loan payments made by mortgage
13 customers?

14 A. I do not know.

15 Q. I think you said that the
16 cash department receives payments --
17 customer payments; is that correct?

18 A. To my knowledge, yes.

19 Q. That's the department that
20 you've said you have not worked in; is
21 that correct?

22 A. That is correct.

23 Q. So you don't have firsthand
24 knowledge about how it operates; is that
25 correct?

STEPHAN

A. That is correct.

MS. PITNEY: Object.

BY MR. COX:

Q. Do you have any knowledge about how the data relating to those payments are entered into the system?

A. I do not have that knowledge.

Q. Do you have any knowledge about how GMAC ensures the accuracy of the data entered into the system?

A. No, I do not.

Q. Do you have any knowledge as to what measures GMAC takes to preserve the integrity and security of the system?

A. No, I do not.

MS. PITNEY: Object to the form of that question.

BY MR. COX:

Q. In your capacity as team lead for the document execution team, what kinds of documents do you sign?

A. The types of documents I sign are assignments of mortgage,

1 STEPHAN

2 numerous types of affidavits, deeds that
3 need to be done post sale, a substitution
4 of trustees. And that covers it in a
5 general span.

6 Q. You said you sign a variety
7 of affidavits. What kinds of affidavits
8 do you sign?

9 A. I sign judgment affidavits
10 for judicial foreclosure actions. I will
11 sign an affidavit verifying military
12 duty. I sign affidavits in reference to
13 -- if GMAC has exhausted all options
14 through lost mitigation upon reviewing
15 notes in our Fiserv system. That's a
16 general description of different types
17 of affidavits.

18 Q. Your document execution team
19 provides documents for foreclosures in
20 what states?

21 A. Throughout the country.

22 Q. Are there other document
23 execution teams within the GMAC system?

24 A. I believe our bankruptcy
25 unit also has a document execution team.

1 STEPHAN

2 Q. That's the only other
3 document execution team that you're aware
4 of?

5 A. To my knowledge, yes.

6 Q. When you referred in one of
7 your answers a few moments ago to
8 judgment affidavits, are you referring to
9 the type of affidavit in front of you, as
10 Deposition Exhibit-1?

11 A. That is a similar type of
12 affidavit, yes. This states Affidavit in
13 Support of the Plaintiff's Motion for
14 Summary Judgment.

15 Q. Have you received any
16 training regarding the summary judgment
17 process in judicial foreclosure states?

18 A. No.

19 Q. Do you have any knowledge as
20 to what a summary judgment affidavit is
21 used for in the State of Maine?

22 MR. FLEISCHER: Objection as
23 to form.

24 BY MR. COX:

25 Q. Would you please answer the

1 STEPHAN

2 question?

3 A. To my knowledge, a borrower
4 would have filed a contested answer. And
5 this would be our next step within the
6 process, to confirm the amount that is
7 due to support the summary judgment.

8 Q. Do you understand how the
9 affidavit is used, that is, Deposition
10 Exhibit Number 1?

11 MS. PITNEY: Objection.

12 Tom, you're getting dangerously
13 close here to the privileged area.
14 I mean, this affidavit, in itself,
15 was prepared in preparation for
16 litigation -- in litigation; not
17 even preparation for it, but
18 during litigation.

19 MR. COX: I have not the
20 slightest interest in getting into
21 attorney/client privilege. I'll
22 rephrase the question.

23 BY MR. COX:

24 Q. Do you have any knowledge of
25 how summary judgment affidavits are used

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STEPHAN

in judicial foreclosure states?

A. No.

Q. Are you aware that they are
given to a judge?

A. Yes.

Q. And do you understand that
the judge relies upon them?

A. Yes.

Q. At the time that you
executed Deposition Exhibit-1 on August
5, 2009, you were, at that time, in your
position as team lead for the document
execution department?

A. Yes.

Q. Has the manner in which you
perform your duties as the team lead for
the document execution department changed
in any way over the period from August 5,
2009 to the present date?

A. No.

Q. Has your job description
changed in any manner during that time?

A. I assumed the responsibility
at that time of also handling the service

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STEPHAN

transfer team as an additional
responsibility; other than document
execution, no.

Q. In your usual business
practice as a team lead for the document
execution team, how does a summary
judgment affidavit come to you, such as
the one that is Deposition Exhibit Number
1?

MS. PITNEY: Objection.

Tom, if you'd like to ask him
about how this specific affidavit
came to him, that's fine. But,
again, you're asking way too
broad.

BY MR. COX:

Q. Do you know how this
specific affidavit got to you, Mr.
Stephan?

A. We have a process in place
that if our attorney network needs an
affidavit, they will upload it into our
system, which is called LPS. We have
another system, which is a communication

1 STEPHAN

2 tool, between our attorneys. They load
3 it into a process called signature
4 required.

5 MS. PITNEY: Jeff, I'm going
6 to interrupt you right there. To
7 the extent that this answer or
8 anything else that you say has to
9 do with your communication between
10 you and your attorney -- GMAC and
11 its attorney, it's attorney/client
12 privilege.

13 THE WITNESS: So I won't
14 answer.

15 MR. COX: Well, let's go
16 back and ask the question again.

17 MS. PITNEY: He's answered
18 the question. He gets the
19 affidavit from the attorney.

20 BY MR. COX:

21 Q. What is the LPS system?

22 A. That is a communication tool
23 with our attorney network.

24 Q. Is LPS a separate company?

25 A. Yes.

1 STEPHAN

2 MS. PITNEY: Objection. The
3 means by which he communicates any
4 details about -- the means by
5 which he communicates with his
6 attorneys is privileged.

7 BY MR. COX:

8 Q. What does LPS do?

9 MS. PITNEY: I'm going to
10 object again on privilege grounds.
11 Same objection. Do not answer
12 that question.

13 THE WITNESS: Okay.

14 BY MR. COX:

15 Q. Is the source of what you
16 know about what LPS does based upon any
17 communication that you've had with
18 lawyers?

19 A. Sorry. Please rephrase
20 that. I don't understand your question.

21 Q. Do you know what LPS does
22 with respect to documents processed by
23 your unit?

24 MS. PITNEY: Objection.

25 Same objection.

1 STEPHAN

2 MR. COX: He can answer that
3 yes or no.

4 THE WITNESS: I still don't
5 understand what you're asking.

6 BY MR. COX:

7 Q. You've mentioned LPS.

8 A. Right.

9 Q. That's a separate company;
10 is that correct?

11 A. It's a system that we have
12 acquired from a company by the name of
13 Fidelity, in order to have communication
14 between our attorneys.

15 Q. Do you have any memory of
16 specifically receiving Deposition
17 Exhibit-1?

18 A. No.

19 Q. Again, I'm asking you, based
20 upon that, to describe what the usual
21 business practice is within your unit, as
22 far as how affidavits, such as Deposition
23 Exhibit-1, come to you.

24 A. Our attorney will load it to
25 the LPS system. Members of my team will

STEPHAN

print it. Other members will prepare it.
The figures have already been loaded from
our network of attorneys. So my team
does not have any input on the affidavit,
other than filling in my name. They
bring it to me. I review it against our
Fiserv system, execute it, hand it back.
They get it notarized. It's Federal
Expressed back to the individual attorney
asking.

Q. Do you keep a log of any
sort of what documents you execute?

MS. PITNEY: I'm sorry. Can
you repeat the question, Tom? I
could not hear that.

BY MR. COX:

Q. Do you keep a log of any
sort of what documents you execute?

MS. PITNEY: Objection.
Work product. Any type of log
that he keeps relative to these
affidavits is prepared in
preparation for litigation; to the
extent that one even exists.

1 STEPHAN

2 MR. COX: He can answer the
3 question of whether or not he
4 keeps a log, before I ask him what
5 goes into the log.

6 MS. PITNEY: Fine.

7 THE WITNESS: No, I don't
8 have a log.

9 BY MR. COX:

10 Q. Does anybody keep a log of
11 what documents you sign?

12 MS. PITNEY: Object to the
13 form of that question.

14 THE WITNESS: Please
15 rephrase.

16 BY MR. COX:

17 Q. Do you know if anybody keeps
18 a log of what documents you execute?

19 A. We have notaries in our
20 department, approximately six, who keep a
21 log for what they notarize.

22 Q. These are notaries within
23 your department?

24 A. That is correct.

25 Q. As I understand it, the

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first step is, in your department, a document comes in on the LPS system from the outside lawyer; is that correct?

A. That is correct.

Q. And then an employee in your department prints it out; is that correct?

A. That is correct.

Q. And then you said that the employee prepares the document. What does that mean?

MS. PITNEY: Objection. The document is prepared for litigation. It is privileged. How it is prepared is privileged. Do not answer that question.

BY MR. COX:

Q. Do your employees have any direct communication with outside counsel?

A. Yes, through the LPS system.

MS. PITNEY: Objection. How and what he communicates with his attorney is privileged, Tom.

1 STEPHAN

2 MR. COX: I haven't asked
3 for the content. I asked if it
4 happens.

5 BY MR. COX:

6 Q. Would you answer the
7 question, please?

8 A. Yes, through the LPS system.

9 Q. Is anything done to a
10 document submitted to the LPS system by
11 an outside lawyer before it reaches your
12 hands?

13 MS. PITNEY: Objection.
14 Preparation of the document is
15 privileged. It's for litigation.
16 Do not answer the question.

17 BY MR. COX:

18 Q. Is the document that is
19 received in the LPS system from outside
20 counsel presented to you in exactly the
21 form that it is received in from outside
22 counsel?

23 MS. PITNEY: Objection.
24 Same objection.

25 MR. COX: Is it an

STEPHAN

objection, or are you instructing
him not to answer?

MS. PITNEY: I'm instructing
him not to answer, to the extent
you're asking him questions about
a document that was prepared
specifically during the course of
litigation. It's protected by
privilege, and you can't ask him
questions about it.

BY MR. COX:

Q. Deposition Exhibit-1 has
your name stamped on it with a stamp; is
that correct?

A. That is correct.

Q. And below your name, the
words "limited signing officer" appear;
is that correct?

A. That is correct.

Q. Who puts that stamp on these
affidavits?

A. My team.

Q. On this particular
affidavit, your name and title is stamped

1 STEPHAN

2 twice on the first page, and once on the
3 signature page for you; is that correct?

4 A. That is correct.

5 Q. And then it's stamped again
6 on the notary page; is that correct?

7 A. That is correct.

8 Q. So as I understand it, an
9 affidavit, such as Deposition Exhibit-1,
10 is initially prepared by outside counsel?

11 MS. PITNEY: Objection.

12 BY MR. COX:

13 Q. Is that correct?

14 A. Yes, that is correct.

15 Q. Does anybody on your team
16 verify the accuracy of any of the
17 contents of the affidavit before it
18 reaches your hands?

19 MS. PITNEY: Objection

20 again. How the document is
21 prepared -- you can ask him
22 questions about the document and
23 what's stated in the document.
24 The preparation of the document,
25 which is prepared for litigation,

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is privileged. Do not answer the
question, Jeff.

BY MR. COX:

Q. Mr. Stephan, do you recall
testifying in your Florida deposition in
December, with regard to your employees,
and you said, quote, they do not go into
the system and verify the information as
accurate?

A. That is correct.

MS. PITNEY: I'm sorry.

Tom, could you please repeat what
you just said? I just couldn't
hear.

MR. COX: Quote: They do
not go into the system and verify
the information as accurate.

BY MR. COX:

Q. Is that correct?

A. That is correct.

MR. FLEISCHER: Tom, can you
reference what litigation that was
in, do you know?

MR. COX: The Florida case

STEPHAN

that he testified in.

MR. FLEISCHER: I just
thought you might have a reference
there.

MR. COX: I'll get it
shortly.

BY MR. COX:

Q. Do you and your 14-person
team all work in the same physical space?

A. Yes. We're all in the same
department.

Q. Do you have an office or a
cubicle, or what?

A. Cubicle.

Q. Do the employees bring
documents to you to sign?

A. That is correct.

Q. How many do they bring to
you at a time, on average?

A. For a month, anywhere from
six to 8,000 documents.

Q. Do you recall testifying in
your Florida deposition in December that
you estimated it was 10,000 documents a

STEPHAN

month?

A. I do not recall. I'm going off of numbers within the past month or so.

Q. Have those numbers gone down in the past month or so?

A. There has been a decrease.

Q. Back in December, were you signing in the range of 10,000 documents a month?

A. I may have been.

Q. Back in August of 2009, roughly, how many documents a month were you signing?

A. I cannot estimate. I don't know.

Q. Do you believe that it was more or less than the number you were signing in December?

A. I'm going to assume, more.

Q. And on a given day, I understand an employee brings you a group of documents for you to sign; is that correct?

1 STEPHAN

2 A. That would be correct.

3 Q. Roughly, how many are
4 brought to you in a group, on average?

5 A. Throughout a day, I believe
6 we are averaging approximately 400 new
7 requests coming in from our attorney
8 network. So I would say approximately
9 400 per day.

10 Q. This sounds very basic.
11 But, physically, are you handed a pile of
12 100 documents, 300 documents? How does
13 that work?

14 A. They bring them to me in
15 individual folders from each one of the
16 members of my team. I do not count how
17 many are in the files.

18 Q. So each team employee has a
19 folder of document; is that correct?

20 A. That is correct.

21 Q. When you receive a summary
22 judgment affidavit to be signed by you,
23 is it accompanied by any other documents
24 relating to the loan?

25 MS. PITNEY: Objection. The

1 STEPHAN

2 document is prepared for
3 litigation. And anything he does
4 when he's preparing it is
5 privileged.

6 MR. COX: Are you telling
7 him not to answer?

8 MS. PITNEY: I am. Tom, if
9 you want to ask him about general
10 procedures, which you have been,
11 then I'm not going to object as
12 much. But if you want to ask him
13 about what goes into preparing a
14 document that was used for summary
15 judgment, that's clearly prepared
16 for litigation, and it's
17 privileged and protected.

18 MR. COX: I think you
19 haven't heard my question, Julia.
20 I'll state it again.

21 BY MR. COX:

22 Q. When you receive a summary
23 judgment document for your execution, is
24 it accompanied by any other documents?

25 MS. PITNEY: My objection is

1 STEPHAN

2 -- you can answer that question,
3 Jeff.

4 THE WITNESS: There are
5 times when it has the Complaint
6 connected. There are times when
7 it is brought to me just as the
8 affidavit.

9 BY MR. COX:

10 Q. When you say that there are
11 times when it comes to you with a
12 Complaint connected, you mean attached as
13 an exhibit?

14 A. Such as this one, yes.

15 Q. When you say "this one,"
16 you're referring to Deposition Exhibit-1?

17 A. Yes, that is correct.

18 Q. Deposition Exhibit-1 has
19 several exhibits attached to it; is that
20 correct?

21 MS. PITNEY: Could you
22 please tell me what the exhibits
23 that are attached are, because I
24 don't have the benefit of having
25 them in front of me?

1 STEPHAN

2 THE WITNESS: Exhibit-A is a
3 copy of the note and the --

4 MR. COX: Julia, this is
5 your summary judgment affidavit.

6 MS. PITNEY: I'm not
7 doubting that it is. I just don't
8 know what these other exhibits
9 attached are.

10 MR. COX: Don't you have
11 your copy?

12 MS. PITNEY: You're the one
13 verifying if they're the same as
14 the one I'm looking at, Tom.

15 THE WITNESS: Exhibit-B is
16 the mortgage. Exhibit-C is the
17 assignment of note and mortgage.
18 Exhibit-D -- I believe we're
19 looking at the demand, or the
20 breach letter. And those are the
21 four documents that are connected
22 to this affidavit of summary
23 judgment.

24 BY MR. COX:

25 Q. In your usual practice, are

1 STEPHAN
2 those exhibits attached to the affidavit
3 at the time that you sign them?

4 MS. PITNEY: Objection.
5 You're asking about a document
6 that was prepared by an attorney.
7 Anything that comes with it that
8 he's asked to review is
9 privileged -- the communication
10 between a client and an attorney.
11 Do not answer the question.

12 BY MR. COX:

13 Q. Mr. Stephan, would you
14 please look at Paragraph 3 of Exhibit-1.
15 Do you see there the statement: That a
16 true and correct copy of which is
17 attached hereto is Exhibit-A?

18 A. Where are you looking?

19 Q. Paragraph 3. Do you see
20 that statement?

21 A. Yes, I do.

22 Q. When you sign an affidavit
23 such as Exhibit-1, are the exhibits
24 attached to it?

25 MS. PITNEY: Objection. A

1 STEPHAN
2 document that's provided to him by
3 an attorney is privileged.

4 MR. COX: Are you telling
5 him not to answer that question?

6 MS. PITNEY: Yes. I'll say
7 again, Tom, if you would like to
8 ask him about the facts that are
9 in the affidavit, the details
10 about this loan -- which I might
11 remind you involves a woman by the
12 name of Nicole Bradbury -- then
13 I'm sure Jeff will answer your
14 question?

15 MR. COX: Well, he has the
16 affidavit in front of him in this
17 case. And the affidavit which he
18 swore to says a true and correct
19 copy of the note is attached to
20 it. And I'm asking him if that
21 document was attached to it at the
22 time that he signed it.

23 BY MR. COX:

24 Q. Would you please answer that
25 question?

STEPHAN

A. To my knowledge, I do not recall.

Q. Is it your usual business practice to have exhibits attached to affidavits that you sign?

A. Yes.

Q. All exhibits?

MS. PITNEY: Object to form.

THE WITNESS: I do not know.

BY MR. COX:

Q. When you sign a summary judgment affidavit, do you check to see if all the exhibits are attached to it?

A. No.

Q. Does anybody in your department check to see if all the exhibits are attached to it at the time that it is presented to you for your signature?

A. No.

Q. When you sign a summary judgment affidavit, do you inspect any exhibits attached to it?

A. No.

1 STEPHAN

2 MS. PITNEY: Could you
3 repeat the question, Tom? Did you
4 say -- or can you have it read
5 back, please?

6 (Whereupon, the pertinent
7 portion of the record was read.)

8 MS. PITNEY: Object to the
9 form.

10 BY MR. COX:

11 Q. What happens to an affidavit
12 in your department after you sign it?

13 MS. PITNEY: Objection.
14 What happens to the document
15 afterwards is -- it's in the
16 course of litigation. The same
17 objection as I said before. Where
18 it goes is privileged.

19 MR. COX: Where it goes is
20 not a communication. It is not
21 privileged.

22 MS. PITNEY: You don't know
23 that.

24 MR. COX: Pardon me?

25 MS. PITNEY: You don't

1 STEPHAN

2 necessarily know that.

3 MR. COX: The physical
4 movement of a document is not a
5 communication. It's a fact.

6 BY MR. COX:

7 Q. My question to you is, where
8 does a summary judgment go after you sign
9 it?

10 A. After I sign it, it is
11 handed back to my staff. My staff hands
12 it to a notary for notarization. It is
13 then handed back to my staff. They send
14 it back to the network attorney
15 requesting any type of affidavit.

16 Q. So you do not appear before
17 the notary; is that correct?

18 A. I do not.

19 Q. What does your staff do with
20 a summary judgment affidavit, such as
21 Deposition Exhibit-1, after it receives
22 it back from the notary?

23 A. They go into our LPS system,
24 close out process, stating it's being
25 sent back to --

1 STEPHAN

2 MS. PITNEY: Objection.

3 Sorry. I don't mean to interrupt
4 you, Jeff. I'm going to instruct
5 you not to answer anything else,
6 because you've already testified
7 that the LPS system is the means
8 by which you communicate with your
9 attorney. The attorney/client
10 communication is privileged. So
11 don't continue to answer the
12 question.

13 Actually, if there is no
14 question, pending, I'd like to
15 take a brief break to discuss
16 something with Brian Fleischer.

17 (Whereupon, a short recess
18 was taken.)

19 BY MR. COX:

20 Q. Mr. Stephan, do you recall
21 testifying in your Florida deposition in
22 December that you rely on your attorney
23 network to ensure that the documents that
24 you receive are correct and accurate?

25 A. That is correct.

STEPHAN

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2 Q. And is that, in fact, the
3 case?

4 A. Yes.

5 Q. And your department does not
6 do any independent accuracy check of
7 those records; isn't that correct?

8 MR. FLEISCHER: Objection as
9 form.

10 THE WITNESS: Can you
11 rephrase?

12 BY MR. COX:

13 Q. Your department does not do
14 any independent check of the accuracy of
15 the information on the summary judgments
16 coming to you; isn't that correct?

17 A. I review, quickly, the
18 figures. Other than that, that's about
19 it.

20 Q. Do you recall testifying in
21 your Florida deposition in December, that
22 the affidavits that you sign are not
23 based upon your own personal knowledge?

24 A. I do not recall.

25 MS. PITNEY: Objection to

1 STEPHAN

2 the form.

3 BY MR. COX:

4 Q. You do not recall that?

5 A. I do not recall.

6 Q. When you receive a summary
7 judgment affidavit from one of your staff
8 members, what do you do with it?

9 A. I will first review it
10 against our computer system, which is
11 Fiserv, in general terms, to verify that
12 the figures are correct. And then I will
13 execute it and hand it back to my staff
14 to have it notarized.

15 Q. You say "in general terms"
16 you review it. What do you mean?

17 MS. PITNEY: Objection.

18 THE WITNESS: I compare the
19 principal balance. I review the
20 interests. I take a look at the
21 late charges. I look at the
22 outstanding escrow amounts. When
23 I say "general terms," I mean I'm
24 not looking at the escrow and
25 breaking it down to the penny.